

# **Exhibit 1**

October 15, 2009

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**VIA EMAIL**

Debera W. Hepburn  
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P.O. Box 118218  
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**Re: nXn v. Yahoo! Inc. et al. & Bright Response v. Yahoo! Inc. et al.**

Dear Debera:

I am writing in response to your letter of today regarding source code. First, I do not understand the requests stated in your first paragraph, and I am happy to discuss them with you tomorrow, so please propose a time that we can speak. Second, with respect to all of your requests for additional code, as I explained to both Ari Rafilson and John Bustamante on several occasions, we would like a written explanation of why the code you are requesting is relevant to the lawsuit before we agree to make any additional code available for inspection. I made this request weeks ago, but we have not received any response. Third, as I have also repeatedly explained to a number of plaintiff's attorneys, including Mr. Rafilson and Mr. Bustamante, the infringement contentions in this case are very vague and provide little guidance as to what is actually accused of infringement in this case. Accordingly, your reliance on the current infringement contentions does not advance our efforts to identify the relevant source code for this case. Fourth, as you already know, the source code printouts requested by Mr. Rafilson are being sent to you by Federal Express tonight.

With respect to your request to begin reviewing the source code for the Bright Response lawsuit on October 22, as you know, that code has been available for inspection for some time. We will make the necessary arrangements so that you can begin the review on October 22, and I will get back to you with the specifics once we have the logistics worked out.

Sincerely,

s/Jason C. White

Jason C. White

JCW:gf